UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2002/119
14 January 2002

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 19 of the provisional agenda

ADVISORY SERVICES AND TECHNICAL COOPERATION IN THE FIELD OF HUMAN RIGHTS

Situation of human rights in Somalia

Report of the independent expert, Mr. Ghanim Alnajjar, submitted in accordance with Commission on Human Rights resolution 2001/81

GE.02-10086 (E) 150202

CONTENTS

		Paragraphs	Page
Executive summary			3
Introduction		1 - 15	4
I.	POLITICAL DEVELOPMENTS	16 - 29	7
II.	PAST HUMAN RIGHTS ABUSES	30 - 32	9
III.	HUMAN RIGHTS ABUSES DURING THE PERIOD COVERED BY THE REPORT	33 - 57	10
IV.	CIVIL SOCIETY	58 - 59	14
V.	EDUCATION	60 - 61	14
VI.	FIELD VISITS	62 - 117	14
	A. Visit to Baidoa	62 - 75	14
	B. Visit to Mogadishu	76 - 95	17
	C. Visit to "Somaliland"	96 - 117	20
VII.	"PUNTLAND"	118 - 127	24
VIII.	PARTNERSHIPS FOR THE PROMOTION OF HUMAN RIGHTS IN SOMALIA	128 - 134	26
IX.	CONCLUSIONS AND RECOMMENDATIONS	135 - 138	27
Annex:	List of persons consulted		29

Executive summary

The human rights climate in Somalia remains one of tenuous progress in some areas, amid continued widespread violations and specific significant setbacks. The will of the general Somali population to live in peace, in dignity and with hope, is above all evident and sustaining.

The period covered by this report has witnessed considerable political crises in the two regions previously identified as stable and conducive to growth in the observance of human rights, and slow advances in the capital towards the legitimacy conducive to the consistent application of human rights principles. New forces of opposition and fragmentation have also emerged. These trends have manifested themselves in continued infringements of the rights to life and security, to due process, and to social and economic rights such as the right to education and the right to an adequate standard of living. These infringements have the harshest impact on vulnerable members of society, including women, children and minorities.

The self-declared autonomous region of "Somaliland", in north-western Somalia, continues to be the most secure region, despite a political stand-off with elders in August. While the judicial system is weak, and correctional facilities poor, there is seeming recognition and political will to address deficiencies, and non-governmental organizations and the media enjoy significant liberties.

"Puntland" in the north-east, seeking to be a federal entity of the larger Somalia, is at present in the midst of crisis over its leadership, influencing negatively both the overall security in the area as well as exacerbating the situation for refugees and internally displaced persons in particular.

In "Baidoa", the independent expert encountered an atmosphere of unease, and considerable employment of child soldiers, while the need for education and medical facilities remained largely unaddressed. Rehabilitation of a village previously decimated during fighting was a positive indicator of the resilience of the population.

The capital of Mogadishu remains under the control both of faction leaders and of the new Transitional National Government (TNG). The TNG is reportedly making efforts towards the demobilization of former soldiers and the training of the judiciary. Faction leaders also undertake maintenance of facilities and rudimentary education in some areas. There is periodic fighting with significant casualities.

One recurring issue in the independent expert's assessment has been that of addressing alleged past human rights violations, on which he has received substantial support from Somali leaders and the general population alike.

The independent expert is strongly encouraged by the vibrancy of civil society organizations and the media throughout Somalia, which enjoy considerable levels of freedom. He believes that support of these entities would translate into strengthened and sustainable progress towards the protection, promotion and fulfilment of human rights in Somalia.

Introduction

1. At its fifty-seventh session, on 25 April 2001, the Commission on Human Rights adopted resolution 2001/81, in which it called upon the Secretary-General to appoint a new independent expert on the situation of human rights in Somalia, decided to extend the mandate of the expert for a further year, and requested the future independent expert to report to the Commission on Human Rights at its fifty-eighth session.

2. Dr. Ghanim Alnajjar was appointed by the United Nations Secretary-General, effective 3 June 2001, as the new independent expert on the situation of human rights in Somalia. He has since then been keenly following the developments of the human rights situation in Somalia. His first mission, undertaken from 28 August to 7 September, involved visits to the three main regions of Baidoa, Mogadishu and Hargeisa in Somalia, as well as to Nairobi, Kenya. In Baidoa, he met with representatives of the Somali Reconstruction and Reconciliation Council (SRRC), United Nations staff and members of international and national non-governmental organizations (NGOs). The expert then visited Mogadishu where he met with members of the Transitional National Government (TNG), local NGOs and faction leaders, while in Hargeisa he met with local authorities, NGOs, United Nations staff and alleged victims of human rights violations. His stay in Kenya afforded him the opportunity to meet with Nairobi-based United Nations staff and representatives of the international community and international NGOs.

3. The independent expert wishes to express his great appreciation for the openness and hospitality with which he was met while in Somalia. This experience lent him a sense of hope and encouragement in addressing the human rights situation, and he is grateful to all the Somalis who were of assistance throughout the mission. He is especially grateful to the Somali journalists, human rights defenders, women's groups, other NGOs and individuals who made the effort to share their perspectives. Sincere thanks must also go to the Somali officials (and faction leaders) for facilitating the mission, taking time to meet with him and providing valuable information.

4. The independent expert is also grateful to the staff of the international agencies with whom he met. Special thanks are due to the UNDP Resident Representative and the staff of the United Nations Coordination Unit for their logistical support and commitment to the mission, and to the Special Representative of the Secretary-General in Somalia, Mr. David Stephen, for his insights. The expert is also appreciative of the exchange of experience during the mission with other United Nations personnel, notably members of the United Nations Human Rights and Gender Working Group, and particular thanks must go to the UNICEF personnel who facilitated his visit to Baidoa.

5. The expert met with representatives of the international community in Nairobi, including representatives of Denmark, Sweden, the European Union, Italy, USAID and Saudi Arabia. He is grateful to them for providing helpful information and sharing their insights, approaches and activities with respect to Somalia. The expert also addressed a meeting of the Somalia Aid Coordination Body (SACB). SACB was formed out of the 1993 Addis Ababa Declaration of the Fourth Coordination Meeting on Humanitarian Assistance for Somalia, organized by the United Nations Operation in Somalia (UNOSOM). It is a voluntary coordination body based in

Nairobi, constituted of donors, United Nations agencies, NGOs and other international organizations and geared towards developing a common strategy in the allocation of international aid to Somalia.

6. In Nairobi, the independent expert also had a useful meeting with representatives of the Swedish NGO DIAKONIA and wishes to express his thanks to them for their time and effort.

Mandate and achievements

7. The independent expert on the situation of human rights in Somalia is appointed by the Secretary-General in accordance with Commission resolution 1993/86 of 10 March 1993. In that resolution, the Commission requested the Secretary-General to appoint for a period of one year a person having wide experience in the field of human rights as an independent expert to assist the Special Representative of the Secretary-General for Somalia through development of a long-term programme of advisory services for re-establishing human rights and the rule of law, including a democratic constitution, as well as the eventual holding of periodic and genuine elections by universal suffrage and secret ballot.

8. The mandate has been renewed on a yearly basis since that date, and has been executed continuously, with the exception of the period September 2000-May 2001 when a new independent expert was being recruited.

9. The first expert appointed, Mr. Fanuel Jarirentundu Kozonguizi, submitted his initial report on the situation of human rights in Somalia to the Commission on Human Rights at its fiftieth session (E/CN.4/1994/77 and Add.1). In this document the expert expressed the opinion that it was premature under the prevailing unstable circumstances to propose a specific programme of advisory services. He further recommended that an independent group of human rights monitors be set up to investigate and transmit alleged human rights violations; that the United Nations Operation in Somalia (UNOSOM II) Human Rights Unit be strengthened and expanded to be able to deal effectively with any violations of human rights by the UNOSOM II forces; and that, once stability had been restored, an Ombudsman's office be established.

10. At its fifty-first session, on 3 March 1995, the Commission adopted resolution 1995/56 entitled "Assistance to Somalia in the field of human rights", in which it called upon all parties to the conflict in Somalia to work towards a peaceful solution to the crisis. It requested the independent expert to study ways and means of how best to implement, at the earliest possible date, a programme of advisory services for Somalia, aimed at re-establishing respect for human rights and the rule of law and strengthening the police and judicial and prison systems in Somalia. It requested the Secretary-General to report to the Commission at its fifty-second session on the situation of human rights in Somalia and the implementation of its resolution.

11. Following the death of Mr. Jarirentundu Kozonguizi, the Secretary-General, on 31 July 1995, appointed Mr. Mohamed Charfi as independent expert on Somalia. In accordance with Commission resolution 1995/56, Mr. Charfi submitted his report to the Commission at its fifty-second session (E/CN.4/1996/14 and Add.1). With respect to human rights violations, the expert's recommendations included the establishment of an international or,

political conditions permitting, a national tribunal to address past serious violations. Until such time that such a body could be set up, efforts should be made through the international community to preserve and gather evidence, and an investigative committee created. He further advocated that United Nations efforts should focus on the revitalization of democratic structures and processes.

12. Following the resignation of Mr. Charfi, the Secretary-General appointed Ms. Mona Rishmawi as the independent expert on the situation of human rights in Somalia in December 1996.

13. After undertaking two missions to Somalia, Ms. Rishmawi recommended in her 1998 report (E/CN.4/1998/96) several possibilities for building a nucleus for human rights work in Somalia and called for full investigation into allegations of abuses committed by the international troops which were present in Somalia from 1992. She also suggested the appointment of a human rights officer to carry out a programme of technical cooperation in Somalia. The High Commissioner for Human Rights endorsed this recommendation and proceeded with the appointment of the officer, to be stationed in Nairobi with other United Nations agency staff dealing with Somalia. The Commission on Human Rights in its resolution 1998/59, welcomed the High Commissioner's decision to make that appointment.

14. The human rights officer was posted in October 1999 and pursued the following objectives:

(a) Monitoring the human rights situation in Somalia;

(b) Mainstreaming and integrating a human rights perspective into the work of all the United Nations agencies regarding Somalia;

(c) Providing technical assistance in the field of human rights;

(d) Supporting Somali human rights NGOs;

(e) Raising awareness in the area of the administration of justice; and

(f) Assisting the independent expert in fulfilling her mandate.

15. Ms. Rishmawi resigned in September 2000. The Commission on Human Rights at its fifty-seventh session, in resolution 2001/81 welcomed the support given by the Office of the United Nations High Commissioner for Human Rights through the appointment of the human rights officer for Somalia and expressed the hope that he would be able to continue to give meaningful assistance to the Somali people through the fulfilment of his mandate. It also commended the work carried out by the former independent expert and called upon the Secretary-General to appoint a new independent expert.

I. POLITICAL DEVELOPMENTS

16. The fragmentation of Somalia continues to be the main contributor to the non-observance of law and order and to widespread human rights violations. Despite United Nations and other efforts to bring the different factions together within the peace process, the country is still controlled by quasi-governmental entities (QGE), which lack international recognition, are unable to create viable administrative and legal structures and are thereby vulnerable to outside interference.

17. The Transitional National Government (TNG) was established with the inauguration of the President, Mr. Abdiqasim Salad Hasan, on 27 August 2000, and the subsequent appointment of a prime minister, Mr. Ali Khalif Galaid, on 9 October. This resulted from the initiative by President Ismail Omar Guelleh of Djibouti for the Somalia National Peace Conference, or Arta process, which opened on 2 May 2000, in Djibouti, and involved long deliberation on clan representation, parliamentary delegates and the method of election. The self-declared autonomous region of "Somaliland" had announced its political independence and therefore absence of involvement in the peace process. Opposition was also expressed by the president of the "Puntland" region, Mr. Abdullahi Yusuf, and several militia-faction leaders in Mogadishu. Initial support by the Rahanwein Resistance Army, controlling the south west, was withdrawn in late October. The Transitional National Assembly (TNA) is made up of 245 members, elected on a strict clan basis, and includes 25 women. It has been based in Mogadishu since October 2000.

18. The TNG faces formidable political, economic and military challenges. With respect to the economy, the TNG has been unable to create sustainable opportunities, and efforts are further hampered by the ban on livestock by the Gulf States.

19. A year after the establishment of the TNG and the TNA, the outcomes of the Djibouti peace conference remain unclear. Despite growing recognition from the international community, including the Organization of African Unity/African Union (OAU/AU) and the Inter-Governmental Authority on Development (IGAD), the TNG has no effective control outside parts of Mogadishu and, furthermore, continues to face open opposition from the Somali Reconciliation and Restoration Council (SRRC) and various faction leaders. At around the time of the expert's visit, the TNG had initiated negotiations with two of the Mogadishu-based faction leaders, Mr. Osman Ali Atto and Mr. Musa Sudi Yalahow, with a view to reaching an agreement on reconciliation.

20. Members of the TNA on 11 October 2001 tabled a motion of no confidence in the TNG. The motion was duly passed with the result that the prime minister and his cabinet resigned, and the president appointed Hasan Abshir Farah the new prime minister in November.

21. At present , the minimal role of government presents considerable potential for the private sector. However, this is unrealized in the climate of instability and weak legal frameworks, and in the absence of an effective administrative structure, all of which presumably offers little to attract investors. The attacks on the United States of America of 11 September 2001 also took its toll on Somalia when some major Somali-based companies were alleged to have connections with international terrorism, resulting in freezing of their assets

and transactions. Specifically, the remittance bank and telecommunications operation Barakat was frozen, with a consequent impact on the incomes of ordinary Somalis and the larger economy.

22. The north-west region of "Somaliland" has made steady progress in the expansion of effective law enforcement and judicial processes. Resistance to the Arta peace process prompted enhanced assertiveness on the question of the independence of the region. It is claimed that the referendum in May on the constitution supportive of autonomy gained the vote of some 90 per cent of the "Somaliland" population.

23. The Government was actively intolerant of dissenting voices supporting the Arta conference, and this may have fostered a climate of mistrust. The arrest of 18 sultans in August 2001 perhaps fed on this atmosphere, provoking the use of excessive force and resulting in the death of a young boy.

24. The authorities in "Somaliland" are working on an agenda towards the holding of multiparty elections in early 2002.

25. The SRRC was established in March 2001, following meetings in Ethiopia by southern faction leaders opposed to the Mogadishu-based TNG. The grouping includes a presidential council, consisting of five co-chairmen rotating on a monthly basis, and a first secretary. The five co-chairmen are: Hussein Aideed of the Somali National Alliance (SNA); Hilowle Iman Umar, from north Mogadishu; General Adan Abdullahi Nur Gabyow, of the Somali Patriotic Movement (SPM); Hasan Muhammad Nur Shatigadud of the Rahanweyn Resistance Army (RRA); and Abdullahi Shaykh Isma'il of the Southern Somalia National Movement (SSNM). Hussein Aideed was chosen as the first chairman, with a mandate for six months.

26. At a press conference held in Addis Ababa at the meeting establishing the organization in early March 2001, Mr. Aydid stated that the SRRC aimed to convene a national reconciliation conference inside Somalia with a view to creating a broad-based government.

27. The regional capital of the Middle Juba region, Bu'aale, roughly 450 km south-west of Mogadishu, was captured on 28 July 2001 by militia led by "General" Muhammed Sa'id Hirsi Morgan. It is reported that at least nine people were killed in the attack and dozens wounded. An offensive had been launched on 25 July aimed at recapturing the port city of Kismayo, about 350 km south-east of Bu'aale, controlled by the Juba Valley Alliance (JVA), a grouping of Marehan, Ogadeni and Habar Gedir clans. The situation has since been reversed, following counter-offensives by the JVA. The JVA, which supports the TNG, had initially gained control of Kismayo in June 1999 from Morgan's forces.

28. "Puntland" had declared itself autonomous in 1998, following a conference of local elders, during which Colonel Abdullahi Yusuf Ahmad was elected as the region's first president for a three-year term. Abdullahi Yusuf, whose three-year term was to have ended on 30 June 2001, claimed that his mandate had been extended by parliament for another three years. In July, Yusuf Haji, former chief justice, issued a decree asserting that, under the "Puntland" charter, he was the legitimate authority in the region until a new administration was

elected, resulting in both himself and Abdullahi Yusuf claiming to be president. "Puntland's" traditional elders meeting in Garowe in July, rejected Abdullahi Yusuf's extension and named Yusuf Haji Nur as "acting president" until the election of a new administration was held.

29. On 14 November 2001, the general conference of the constituent regions of the self-declared autonomous region of "Puntland", north-eastern Somalia, elected a new president. The conference, which had been in session in Garowe, the regional capital, since 26 August, elected Jama Ali Jama, as "Puntland's" new president. Ahmad Mahmud Gunle was elected as vice-president. However, the situation at the time of writing is volatile and unclear. The forces of the deposed president Abdillahi Yusuf captured the town on 21 November after heavy fighting and continued to hold the town without initiating a new offensive. There were reports of 12 wounded. Many people have been fleeing the town, leading to a flow of refugees to the Sool region. Jama Ali Jama is reported to be in Bossaso and holding discussions with elders about possible resolutions of the situation.

II. PAST HUMAN RIGHTS ABUSES

30. Many atrocities that could be qualified as war crimes and crimes against humanity are frequently committed in Somalia. War crimes and crimes against humanity give rise to international criminal jurisdiction, either by an international criminal tribunal, or through the exercise of universal jurisdiction by national courts. Until the time comes when an international criminal tribunal has a mandate to try those suspected of committing war crimes and crimes against humanity in Somalia, national courts in countries where such suspects are said to live or frequently to travel to, such as Djibouti, Canada, Egypt, Ethiopia, Kenya, Italy, the United Kingdom, the United States of America and Yemen, can bring them to justice. The independent expert encourages the prosecuting authorities in these countries to take steps in this regard.

31. As for what constitutes war crimes or crimes against humanity in the Somali context, the present independent expert endorses the view of the previous expert in asserting that international humanitarian law relating to non-international armed conflict applies in the whole territory of Somalia, irrespective of whether a specific area is engulfed in active fighting or not. This application extends to the "Puntland" regional government in the north-east, which considers itself part of Somalia, as well as to "Somaliland", which is asserting independence, although there is no international recognition of its separate status.

32. The independent expert takes note of the almost unanimous support expressed by the major political actors for action to address past human rights abuses. Following his mission, the expert communicated to the United Nations Secretary-General and the Security Council his recommendation that an independent committee of experts be appointed to investigate allegations and present proposals to the Security Council. The independent expert expressed his conviction to Somali leaders that this effort would depoliticize the issue and contribute to the process of peace and reconciliation in Somalia. He stressed that the investigation should also include the conduct of the United Nations in Somalia.

III. HUMAN RIGHTS ABUSES DURING THE PERIOD COVERED BY THE REPORT

The right to life

33. The right to life is frequently violated in Somalia. The independent expert was informed of three serious incidents of inter-clan fighting between May and July in the Middle Shabelle region, south-central Somalia, which resulted in total death tolls of approximately 32 persons. The clashes were between the two Abgal sub-clans of Kabale and Abdulle Galmah, and in at least one instance concerned the use of water wells and grazing land. The fighting was reportedly successfully mediated by clan elders supported by militia from other sub-clans. There were clashes in May, in which one man was reportedly killed and two injured at the airport in Belet Weyne. In June, militia attached to a Shariah court in Merca attacked the compound of the Deputy Minister for Planning in the TNG. Four persons were killed and 10 wounded in the attack.

34. During the expert's visit, two cases were brought to his attention. The first involved the killing of two brothers aged 10 and 12, allegedly by an armed militia member of the TNG. The expert raised the case with the President of the TNG and demanded that a proper investigation be carried out and that the person responsible be brought to justice. The President promised to do that. The second incident occurred in Hargeisa, "Somaliland", during the arrest of sultans in August 2001, when a boy was shot in the stomach and later died. The same request was made to Mr. Egal, the "President" of "Somaliand", who promised to carry out an investigation. So far, the independent expert has not been informed about any developments in this regard.

35. The situation is especially severe in Mogadishu. In mid-June it was reported that an 11-year-old shoeshine boy from a minority clan was shot dead in Mogadishu by one of his clients after the boy insisted on payment due to him. There were also reports of three people being killed and five wounded on 22 July when two armed groups clashed near the Fagaraha junction in north Mogadishu. It was reported that 19 people were killed during fighting which took place in and around Wanle Weyne town, north-west Mogadishu, at the end of May, allegedly involving RRA and TNG militia. Mogadishu was also the site of the most virulent fighting on 11 and 12 May, which left an estimated 50 people dead and up to 100 injured. The conflict was reportedly initiated by an attack by pro-government militia at the Mogadishu port on faction leader Hussein Aideed, which escalated until Aideed's retreat. It was reported that most of the dead and wounded were civilians hit by stray bullets. There were also reports of clashes in mid-July between Habar Gedir-Sa'd militia loyal to Mr. Osman Ali Atto and Habar Gedir-Ayr militia allegedly working for pro-government businessmen Also in Mogadishu, two persons were killed when their truck was hijacked when travelling from Wanle Weyne.

36. Subsequent to the expert's visit, he was informed of three days of heavy fighting in Mogadishu in mid-October which had left 15 people dead and 20 wounded. It allegedly involved militia loyal to the Mogadishu faction leader, Muse Sudi Yalahow, attacking a training camp for new recruits to the security forces of the TNG located in the southern outskirts of the city. TNG security forces thereafter attacked Yalahow's main camp in El-Irfid, some 10 km north of the city. Yalahow's forces reportedly responded by mortar-bombing the north Mogadishu district of Huriwa two days later.

37. Also in October, violent protests against the refusal by some traders to accept the 500 Somali shilling note involved thousands of people taking to the streets to protest against the refusal due to rising inflation. At least two people were reportedly killed and over a dozen injured.

Intentional attacks on United Nations personnel involved in humanitarian assistance

38. On 27 March, faction leader Muse Sudi Yalahow launched an attack on the compound of Médecins sans frontières (MSF) in north Mogadishu, allegedly "to prove that the capital was unsafe". A team of nine expatriate staff was caught up in the attack; five of the aid workers, including three MSF staff were evacuated to Nairobi the following day. The representatives of UNICEF and of the World Health Organization (WHO) were released two days later, and the remaining United Nations security officers thereafter. In March 2001, a national staff member of UNESCO was arrested and charged in "Puntland" with possessing subversive literature opposing the "Puntland" administration. He was released on bond and at the time of writing this report had not yet been brought to trial. In April, a World Food Programme vehicle was hijacked by bandits in "Puntland". The authorities made arrests.

The taking of hostages

39. Kidnappings continue to occur. In May, a TNA member who had been held hostage for six months by an armed group was released. Another TNA member is still being held at the time of writing. On 24 May, the "Somaliland" Minister of Foreign Affairs and his entourage were reportedly ambushed and kidnapped and one of the minister's escorts wounded. The kidnappers were believed to be from the faction opposed to the referendum. The minister and all his delegation were released on the evening of the same day. On 11 July, a member of the Transitional National Assembly (TNA) was kidnapped, allegedly by supporters of faction leader Osman Hasan Ali Atto after claims that the MP owed money. TNA member Abdirahman Dua'le Ali had also been kidnapped in January, and was also accused by his abductors of owing them money. A doctor was kidnapped from the SOS hospital in Mogadishu in September.

40. Commercial vessels are also often seized, for political reasons or for ransom. At the time of writing this report, a Kenyan-registered fishing vessel and its crew hijacked off the north-eastern coast of Somalia in late July was still being held by its captors. The ship, the MV Bihari, was being held 150 km south-east of Garowe, "Puntland". Negotiations on the captors' demands were ongoing.

Pillage

41. Pillage and looting are common practice. The expert was informed during his visit to Baidoa that the remarkable absence of roofing and other housing accoutrements was due to the widespread looting of material during the occupation by General Aideed's forces.

The conscription of children under 15

42. In many parts of Somalia, children under the age of 15 are recruited by the militias, as soldiers or personal bodyguards. Child soldiers were notably evident in Baidoa.

Rape and other forms of sexual violence

43. Rape and other forms of sexual violence are allegedly widespread. Local human rights NGOs report a high incidence of these crimes in Mogadishu.

Minorities

44. Miniorities are routinely persecuted and marginalized. During his visit to Hargeisa, the expert's attention was drawn to allegations of marginalization of minority groups in political representation and employment opportunities.

The illegal ordering of the displacement of civilians

45. Displacement is a major problem in Somalia. The illegal ordering of the displacement of civilians constitutes a war crime. Somalis in the conflict areas are often either chased away from their normal place of residence or are forced to flee because of the conflict. In this respect, the independent expert wishes to draw attention to the Guiding Principles on Internal Displacement prepared by the Representative of the Secretary-General on internally displaced persons (E/CN.4/1998/53/Add.2, annex).

46. The situation of Somali refugees in Djibouti, Ethiopia, Kenya and Yemen was highlighted in the 1999 report of the previous independent expert. Analysis of the question of Somali refugees in Europe was provided in the report of the independent expert to the Commission on Human Rights at its fifty-fifth session (E/CN.4/1999/103).

47. The expert visited camps for internally displaced persons (IDPs) in areas near Hargeisa, Mogadishu and Baidoa. The IDPs are living in extreme poverty and in appalling conditions. Their continuing situation constitutes a clear violation of human rights.

48. Reports reaching the independent expert estimate that roughly 300,000 to 350,000 of Somalia's 7 million inhabitants are internally displaced, including some 40,000 to 50,000 Somalis displaced in 1999/2000 and a total of about 70,000 displaced and recent returnees in northern Somalia.

49. With the decreasing volume and regularity of food relief distributions, households move from drought- and conflict-stricken areas toward riverine and urban areas, either to settle in economic centres or returning when situations improve. Providing assistance to IDPs is complicated by the unstable security situation, particularly in southern and central Somalia.

50. The health problems faced by IDPs are generally more severe than those faced by the general Somali population. Malnutrition and food insecurity are critical issues affecting Somalia, and since IDPs have generally lost their household resources, livestock and access to arable land, they are the least food secure of all groups.

51. Many IDPs are forced to live in shanty villages or dilapidated buildings. Most of these are unsafe or in very poor condition. The foundations of many buildings have been devastated by conflict. Other structures, built out of mud, thatched grass and debris, are easily destroyed. During rainy seasons, IDPs often have little shelter from rain and cold weather which places their health at risk. UNICEF and the International Committee of the Red Cross (ICRC) conduct distributions of shelter materials in emergency situations, particularly mass population displacements.

52. Sanitation is a chronic problem across Somalia and IDPs are often worst affected in their poor living conditions. In both urban and rural communities, solid waste disposal is particularly unsatisfactory and threatens public health.

53. Insufficient household funds limit access of IDPs to non-food commodities and to schools.

54. Although some IDPs have returned to their areas of origin, continuing political instability, as well as environmental stresses such as drought and flooding, are causing new displacements. In areas where IDPs have returned, particularly in northern areas and recently in the Bay and Bakool regions, their reintegration and rehabilitation are addressed on an ad hoc basis. The only exception is in north-west Somalia, where under a UNDP-funded HABITAT project the Hargeisa municipal authority is being provided with assistance in planning urban resettlement projects.

55. In May 2001 fighting in Gedo, in the south, caused 10,000 refugees to cross the border to Mandera in Kenya. They are being hosted by relatives and Somali residents. No formal camps or feeding centres have been established.

The denial of due process

56. The independent expert wishes to highlight the crime of denial of due process, which is listed in common article 3 of the Geneva Conventions, as well as in the Rome Statute of the International Criminal Court, which consider as a war crime "The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court affording all the judicial guarantees".

57. Several irregular courts are in operation throughout Somalia. They include the Shariah courts in south and central Somalia, and the court structures in "Somaliland" and "Puntland". The functioning of these courts requires further examination and thorough field research.

IV. CIVIL SOCIETY

58. One of the prominent and encouraging features of Somali society is the existence of a committed and vibrant civil society. The lack of government services created a favourable environment for the establishment of NGOs. The number of NGOs in Somalia runs into the hundreds; they address a variety of specific concerns.

59. Human rights defenders were a major source of information during the expert's visit. The expert, who had visited the country in a different capacity three years' previously, noted positive developments in the work of such groups. However, human rights defenders still face serious challenges affecting their activities. Some of those challenges are harassment by the authorities, lack of capacity, lack of funding and lack of exposure to the outside world. The expert highly recommends more support of human rights defenders by donors and United Nations agencies, and during his mission brought this concern to the attention of donors and Governments operating in Somalia.

V. EDUCATION

60. The public education system in Somalia virtually ceased to function in the mid-1980s. Now, due to protracted conflict, another generation has lost access to education. Estimates suggest that only 13 to 16 per cent of children aged 6 to 12 are enrolled in formal schools.

61. There are few places in Somalia where quality and sustained educational services are being offered. Vocational training is also not readily available. Somalia is victim to the widespread absence of formal education systems, which has fostered the creation of a "lost generation" disposed to joining militia, given the lack of other viable opportunities.

VI. FIELD VISITS

A. Visit to Baidoa

62. The independent expert visited Baidoa on 29 and 30 August 2001. Baidoa was under the control of General Aideed from 1995 to 1999, during which period it is alleged that rape and murder were widespread, villages were looted and destroyed and wells were blocked. Townspeople left in large numbers. The Rahanweyn Resistance Army (RRA), formed in 1995, gained control of the town in June 1999 after several years of fighting. At the time of the expert's visit, the town was still largely deserted and there was a notable presence of heavily-armed men and armoured vehicles, reportedly because of recent unaccustomed violence in the area.

63. The independent expert visited the nearby village of Doynounay, which had allegedly been burnt in 1999 by General Aideed's forces and had had its well sealed with concrete. The village, although particularly vulnerable by virtue of its position some 70 km away from frontline fighting, has been largely rebuilt, and now includes a new mosque funded by a Kuwaiti NGO. The old school building is without a roof and remains unused.

64. The independent expert met with the leadership of the Somali Reconciliation and Restoration Council (SRRC). The Chairman of the SRRC, Mr. Hussein Aideed, noted that his group did not recognize the process leading up to the creation of the TNG, but was committed to the initiative of the Intergovernmental Authority on Development (IGAD). This would involve a clan-based power-sharing process and the drawing up of a transitional charter.

65. Hasan Muhammad Nur Shatigadud of the RRA and SRRC informed the expert that in the previous two years a judicial system had been adopted which enforced regulations established by the RRA based on Islamic principles. In the case of rape, Shariah law would be applied. Rulings were reportedly handed down by the Supreme Court and the military Special Court, the highest authority resting with Mr. Shatigadud. The judiciary were not well equipped and were employed on a voluntary basis. Human rights defenders asserted that there was no functional judicial system in the area and that cases were dealt with by the authorities without due process. The courts in the Bay and Bakool regions under RRA control are reportedly in fact semi-military courts which conduct summary procedures.

66. Mr. Shatigadud alleged that in the Middle Juba/Lower Shabelle region occupying forces were violating the rights of indigenous "Habgile" persons through forced labour and denial of access to water sources.

Law enforcement

67. The independent expert visited the police station and holding cells, escorted by the governor and the police warden. There are reportedly some 117 policemen in Baidoa. The holding cells were crowded and there was no food provision or sanitation.

68. The independent expert undertook an assessment of the correctional facilities, in the company of the director of prisons. The prisons were significantly sub-standard, in some instances there was no source of natural light and no provisions for sanitation. Rooms were shared by up to 10 men. The expert spoke to prisoners in detention. Meals of sorghum were distributed twice daily. Some of the prisoners claimed that no official charge had been made against them. One 20-year-old had been brought in by his parents for disobedience.

Past atrocities

69. With respect to the question of past atrocities, SRRC members largely expressed the belief that criminal acts had been committed and that an investigation should be undertaken. They especially noted that UNOSOM had also been responsible for human rights violations in Somalia. The expert raised with "General Morgan" the allegations against him that, as Minister of Defence during the Siad Barre regime, he was responsible for the murders of tens of thousands of people in Hargeisa. "General Morgan" asserted that people had had a right to defend their country against perceived foreign intervention in that period. He alleged that no civilians had been killed and that it was not possible to attribute specific gravesites to specific battles.

70. The independent expert advised the SRRC leadership to create a human rights and humanitarian affairs committee to coordinate human rights activities and monitor compliance with the Universal Declaration on Human Rights. The leadership agreed it was a good idea and asked for assistance.

71. The independent expert pointed out the importance of full adherence by the SRRC leadership to the principles of the Geneva Conventions. The SRRC leaders assured the expert that prisoners of war were not mistreated. It was noted that casualties tend to be limited since adversaries are often of the same clan or family and do not seek to attack to kill. The SRRC leaders requested copies of the Geneva Conventions and the expert promised to supply them.

Children's rights

72. Child soldiers were to be seen in the town. Significant numbers of young boys were carrying weapons, often as part of larger groups of armed men on anti-aircraft or similar vehicles.

73. The independent expert took the opportunity to visit one of the two local orphanages. The building housed some 150 children, including 30 girls. The youngest child was about two and a half years old. The doors of the toilets had been looted and mats on the floor without blankets served as beds in the dormitories. An open-air area served for Koranic teaching. The expert was assured that three meals were provided per day, and that there was a regular supply of water. There was, however, no water in the taps that day.

Human rights defenders

74. The independent expert met with local human rights NGOs who conveyed to him reports of detention without charges, political arrests, kidnapping, child labour, child soldiers and cases of torture. The assertion was made that there was no higher court or court of appeal, and no functional judiciary. Reference was also made to the widespread practice of female genital mutilation and the forced marriage of young girls. Human rights defenders in Baidoa are working under restricted conditions. Their activities are regularly monitored, they lack capacity and funding, and they have meagre facilities. The expert strongly recommends that they be provided with support.

Economic, social and cultural rights

75. The independent expert met with representatives of WFP, the International Medical Corps, UNICEF, UNESCO, World Vision, CARE and WHO. These groups lamented the absence of State services for the provision of effective and reliable health care and education. The services that were provided were constrained by inadequately trained staff, problems of accessibility due to security concerns and the need to appease clan interests with representation. As such, there was reportedly a limited education system, covering private schooling up to Grade 4 level. There was no functioning hospital. Village committees were responsible for the oversight of health care and health boards were set up at the district level. WHO and World Vision did, however, have programmes on polio eradication, tuberculosis and malaria.

B. Visit to Mogadishu

76. The expert visited the Somali capital, Mogadishu, on 31 August and 1 September. This was the first visit by an independent expert since the establishment of the mandate. His mission coincided with a visit by the UNDP Resident Representative for Somalia, based in Nairobi. The two missions were escorted together by a considerable and heavily armed contingent of the TNG army and police between the airport and the city. The city, while clearly physically decimated by years of conflict, and subsisting on rudimentary basic services such as electricity, nevertheless showed signs of a minimum of administrative management in terms of traffic control and active markets.

77. Mogadishu has been the site of active fighting among factions since the fall of the Said Barre regime in 1991. With specific respect to the reporting period, Medina, in south-west Mogadishu, was the epicentre of fighting in mid-July when militia loyal to faction leader Mr. Osman Ali Ato and militia allegedly working for businessmen clashed at the "KM-7" checkpoint controlled by Ato's militia. The businessmen reportedly supported the TNG and, furthermore, were depriving the faction leaders of income they used to obtain in the form of contributions and taxes on imports and exports. Clan elders were reported to have been successful in mediating between the two sides and getting the militias to withdraw from the checkpoint.

The ratification of outstanding human rights treaties

78. The TNG President and Prime Minister both expressed their willingness to sign outstanding international human rights treaties, namely the Convention on the Elimination of Discrimination against Women and the Convention on the Rights of the Child, once the necessary documentation was forwarded. The President in particular cited as a major obstacle the TNG's lack of technical knowledge of processes for ratifying an international treaty. The expert recommends providing technical assistance on the ratification process. This process should be supported by training the Government on how to draft a bill for ratification and by training the Parliament on how to debate such a bill.

79. During one of the meetings with the TNG President, the expert counselled ratification of the Convention on the Rights of the Child before the Special Session of the General Assembly on Children, then scheduled for later in 2001 and now postponed until 2002. The President agreed to make a statement of intent pending referral of the matter to Parliament. The expert is unaware of such a statement having been made up to the time of writing.

The judicial system

80. The TNG leadership claimed that it had established district, regional and divisional courts, as well as supreme and appellate courts. Significantly, it was asserted on several occasions that all the previous forms of court, including Shariah and private courts, had now been consolidated into government courts. This amalgamation was facilitated by the Transitional National Charter, which prohibited special courts, with the exception of military courts. The previous code of traditional law remained valid. A new Constitution was reportedly

being prepared and should be finalized in about a year. In the new Somali penal code, corporal punishment was not permitted. The training of new, as well as retraining of former, judges had recently begun, and there was now a total of 140 practising judges in Mogadishu. It was being proposed to introduce regional autonomous systems of justice.

81. In the area under the control of faction leader Mr. Osman Atto, elders and "self-service" communes were employed in the settlement of disputes, as well as courts in Medina where Shariah law was being practised. Mr. Atto asserted in his meeting with the expert that no corporal punishment was applied.

82. In the region of Mogadishu controlled by Mr. Musa Sudi Yalahow, Shariah and customary law are reportedly applied, but corporal punishment not inflicted. He confirmed during a meeting with the expert that 13 judges were in the service of the judiciary, which included a higher court.

Law enforcement

83. The TNG had on 29 August 2001 deployed its first contingent of 2,000 members of the police force in the city. The Regional Branch Police Chief confirmed to the expert during his visit to the police station that the TNG's approach to law enforcement up to that point had involved attempts at demobilization, an initiative on the exchange of guns for employment, and the training of recruits by former police officers. Uniforms had been funded by the Government of Saudi Arabia. In the long term, the TNG hoped to extend demobilization efforts and decentralize law enforcement to provide security in the regions outside Mogadishu.

Correctional facilities

84. The expert's request for a visit to the prison was granted by the TNG, but time constraints and conflicting meetings permitted the expert to visit only the main police station. The TNG authorities stated that there was a single prison with roughly 130 inmates, accommodating only three or four women. A separate facility was used to house boys who disobeyed their parents.

Past atrocities

85. The TNG leadership acknowledged the need to address past human rights atrocities and stated that it would welcome assistance from the international community in that regard. The assertion was made that the violations should not be viewed in terms of the north of Somalia versus the south of Somalia; rather, it was a question of the regime in power at the time.

86. Past atrocities were also recognized by members of local NGOs, who advocated that the United Nations should assume a key role in addressing the issue and in bringing the actors responsible to justice. One Mogadishu-based human rights organization was especially supportive of the establishment of an international criminal tribunal and indicated that it could identify persons to give evidence before such a tribunal.

87. Faction leader Mr. Osman Ali Atto additionally expressed the view that any investigation should encompass violations by all actors, including UNOSOM. He stressed that violations could not be genuinely addressed without a central Somali government being in place, or outside of Somalia itself.

The establishment of human rights institutions

88. The expert recommended to the TNG the setting up of a national institution for human rights. The TNG Prime Minister noted that the creation of such a commission was stipulated in the TNG National Charter and that assistance for its establishment would be welcome. A similar human rights committee in the Parliament would also be considered. The expert promised to supply the TNG with all the necessary documentation towards that end.

Adherence to the Geneva Conventions

89. Mr. Atto stated that he and his followers did not necessarily adhere to the Geneva Conventions but respected their own traditions, which did not allow prisoners to be harmed, as had been exemplified by the release of hostages three to four weeks previously.

90. Mr. Musa Sudi Yalahow acknowledged that he had never heard of the Geneva Conventions and expressed his willingness to familiarize himself and his followers with them. He welcomed the expert's proposal concerning a training course in this regard. He also stated that prisoners in his custody were treated humanely.

Freedom of expression

91. The independent expert noted positive examples of freedom of expression and of assembly as demonstrated by a vibrant press and active civil society organizations. There is a significant number of independent media outlets with no regulation, including nine newspapers and several radio stations. Freedom of expression is enjoyed to a high degree in the region.

92. The expert met with representatives of local NGOs. The Co-Director of the Dr. Ismail Center for Human Rights was especially active in publicizing an incident in which TNG militia members allegedly shot two young brothers. Among the concerns raised by these organizations were allegations of discrimination against minorities, violence against women and cases of arbitrary detention. They asserted that Shariah courts continued to practise. The penalties they applied included physical punishment, such as amputations by Sheikh Ali in the Banadur area. The TNG President denied the continued existence of Shariah courts.

Economic, social and cultural rights

93. The widespread practice of female genital mutilation was acknowledged by the TNG leaders, who sought advice from the independent expert and from countries with similar cultural experience on how to address the issue.

94. Mr. Osman Atto noted that, within his area of Mogadishu, he administered Koranic schools and the digging of water wells. While among the services reportedly being provided by Mr. Yalahow in his area were the removal of waste and the running of the school system.

Alleged incidents of human rights violations

95. While he was in Mogadishu, it was brought to the attention of the independent expert that two brothers, Abdul-Fatha and Mussa Muhammed Mohsin, aged 8 and 10 years, belonging to a minority clan had allegedly been shot by a TNG militia member in uniform while they were swimming at a public beach in Mogadishu. The independent expert raised the case with TNG President Abdulqasim Salad Hassan, who informed him that investigations had been initiated and would be pursued further. Up to the time of writing this report, the expert has not been informed of any such investigation.

C. Visit to "Somaliland"

96. The expert visited "Somaliland" from 1 to 3 September 2001. He observed improvements in the physical facilities and services compared to his previous visit in another capacity in October 1998, specifically the expansion of the airport, the installation of traffic lights and increased market activity. This region presented the greatest sense of security during his visit to Somalia, despite recent tensions regarding the detention of sultans by "President" Egal. Business was being transacted openly in public and there was remarkable activity in the construction of houses and hotels.

The judicial system

97. The independent expert spoke with the "Minister of Justice" and with "President" Egal concerning the judiciary. He was informed that corruption was a major obstacle to the administration of justice in "Somaliland", notably because of the very low levels of pay for the officials concerned. Options for financing the judicial system thus needed to be explored. The need for training judges was also identified as a main concern; efforts were being made to initiate training by former judges.

Correctional facilities

98. Human rights defenders reported that there are nine prisons in "Somaliland", housing roughly 2,000 inmates. The independent expert visited the central prison in Hargeisa that he had visited previously in 1998 and noted that conditions had deteriorated. The facilities were sub-standard, with prisoners housed in buildings made of corrugated iron and therefore highly susceptible to overheating, despite a limited amount of ventilation. Sanitation was poor. There were young boys among the inmates. NGOs also report that the juveniles are detained in the prisons.

99. The expert also visited the prison in Gabiley, which had been modestly upgraded as part of the Somali Civil Protection Programme (SCPP). However, there was no provision for medical care, and the expert saw that young boys were imprisoned together with older inmates.

UNDP initiated SCPP in 2000. The programme included components for law enforcement and the judiciary, the latter incorporating assessment of needs for correctional facilities and rehabilitation.

100. The expert conveyed his dissatisfaction with the facilities to "President" Egal, who acknowledged the need for rehabilitation of the premises, but cited lack of resources, notably due to the ban on livestock imports from Somalia imposed by Saudi Arabia. The promise was also made to separate juveniles from adults, and to terminate the practice of parents imprisoning boys without official charge. Up to the time of writing this report, no information was provided to the expert on whether such action has been carried out.

Past atrocities and mass graves

101. The former independent expert reported to the Commission at its fifty-fifth session on the preliminary assessment by a team of forensic experts sent by OHCHR to assess alleged mass graves in the vicinity of Hargeisa (E/CN.4/1999/103/Add.1).

102. The Technical Committee for the Investigation of War Crimes, a nominally independent entity funded by the government with 13 members (5 full-time), was set up in Hargeisa in 1997 to identify alleged mass graves and preserve the site. The chairman of this committee, the "Minister of Commerce", informed the independent expert that he had approached the United Nations Resident Representative for technical assistance regarding further investigation into the alleged human rights violations giving rise to the mass graves. The work of the committee is impressive in the light of the fact that it has a budget of US$ 8,000 a year and operates with basic facilities and equipment. Preservation activities were also being undertaken by the NGO Volunteers without Borders, using contributions from Somalis in the diaspora. "President" Egal was supportive of the idea of a Somali-wide approach to investigation of past alleged atrocities.

103. Discussions with civil society indicated that they were strongly supportive of United Nations recognition of, and action on, alleged past atrocities. That sentiment ran particularly high among those actively involved in the preservation since September 2000 of mass graves in Hargeisa.

104. In a letter dated 11 September 2001 addressed to the United Nations Secretary-General and copied to the President of the Security Council, the expert made recommendations for the consideration of the Security Council during its discussions on Somalia originally scheduled for late September/early October 2001. Based on the outcomes of the mission, the expert drew particular attention to the issue of alleged past atrocities. In this respect, he urged the Secretary-General to present for the deliberation of the Security Council a proposal for the formation of a committee of experts to investigate allegations of past atrocities in Somalia. Up to the time of the writing of this report, there has been no specific response on this recommendation to the knowledge of the independent expert.

The establishment of human rights institutions

105. The independent expert proposed the establishment of a human rights committee. The "President" welcomed this suggestion and noted that it would be included on the agenda for discussion by parliament.

Women's rights

106. Female genital mutilation continues to be practised on a wide scale in "Somaliland". Women's groups and human rights activists are seeking approaches to address what is acknowledged by many to be a cultural ritual and are using awareness-raising programmes towards this end. Women's organizations are also advocating strongly for meaningful participation by women in the political life of "Somaliland". There are no women in the "Somaliland" parliament. Such participation, in the view of some of the human rights defenders, would be facilitated by better access to education for girls and "government" preparation of women to take part in political activity. "President" Egal expressed his conviction to the expert that increased participation by women would be forthcoming once the parliamentary system had evolved from a tribal to a party based one. Efforts were also being made to encourage girls to take part in sports, which would require the introduction of sports venues and facilities for girls, as well as wider acceptance of their participation in sports.

107. Attention was drawn to a reported increase in the number of single mothers, due in part to increased domestic violence. The expert was also alerted to the fact that a high percentage of breadwinners in the local communities were women, as large numbers of men returning after the civil conflict were "unemployable".

Refugees and internally displaced persons

108. At a meeting with representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Hargeisa, the expert was informed that there was a lack of clarity over which humanitarian organization was responsible for IDPs. This problem surfaced insofar as the international community did not recognize "Somaliland" as an independent State, and therefore persons who had escaped civil conflict and were returning there from areas within Somalia could not be classified as refugees, with the accompanying entitlements. As such, no agency had undertaken formal responsibility to assist the thousands of persons, many of them families and children, who were seeking to rebuild their lives in "Somaliland". The expert was told that they were provided for through the charitable efforts of individuals and business people.

109. The independent expert reiterates the concerns of the previous expert with regard to proposed European Union (EU) policy that would make it difficult for Somalis to seek asylum in EU States. Such a policy could have the effect of forcing individuals to return to Somalia in the absence of recognized structures in Somalia that the international community could formally call upon to protect the human rights of returnees. The expert thus appeals for a reconsideration by the EU of this policy. An analysis of the question of Somali refugees in Europe was provided in the former independent expert's report to the Commission on Human Rights at its fifty-fifth session (E/CN.4/1999/103).

School curriculum

110. The expert's recommendations to the "Minister of Education" and the "President" for inclusion of human rights on the school curricula were well received. The authorities promised to work on the implementation of this objective. Representatives of the United Nations were also supportive of the idea off such a programme. This programme should include an audit of school curricula, specific recommendations on how to integrate human rights, the provision of textbooks and the training of teachers on how to teach human rights.

Human rights defenders

111. In Hargeisa the independent expert met with local NGO representatives. It is remarkable that NGOs, some of them women's rights NGOs, were represented in significant numbers by women: roughly half of the 15 NGO representatives who attended this meeting were women. It seemed evident that civil society activity was both vibrant and relatively unrestricted. The expert thus again endorses the importance of investing in the civil society.

Minority rights

112. Among the human rights concerns highlighted by NGOs was discrimination against minorities through the alleged denial of political representation and job opportunities.

Economic, social and cultural rights

113. The ban on imports of Somali livestock imposed by Saudi Arabia because of suspected Rift Valley Fever (RVF) has been the cause of significant loss of livelihood for the Somali people, many of whom depend on the livestock trade. United Nations experts who have worked with humanitarian agencies towards obtaining the lifting of the ban by the Gulf States, expressed to the independent expert the view that the ban was justified given the RVF epidemic and related deaths in Saudi Arabia (some 200 people last year) and in Yemen (more than 100).

114. The United Nations Food and Agriculture Organization (FAO) has asserted that the most important action would be to regulate the trade in livestock from Somalia and to put internationally accepted certification and disease surveillance in place. A series of meetings under a UNDP-supported project resulted in a set of scientifically based recommendations, in the hope that agreement could be secured on accepted procedures. The lifting of the RVF ban on exports from the Horn of Africa by the United Arab Emirates in May 2001 resulted in the resumption of livestock exports. United Nations experts believed that the ban would also be lifted soon by other countries, since most of the necessary infrastructure had been put in place. The Ambassador of Saudi Arabia confirmed to the expert that he welcomed those developments.

Detention of sultans

115. The expert was informed that, on 23 August 2001, seven sultans had been arrested and released, and a further 18 detained for eight days. The "President" and local authorities told the expert that they had acted to preserve security and the reputation of "Somaliland", since a

statement issued by the sultans had constituted an infringement of the "Constitution" and an act of treason. The statement had allegedly asserted, inter alia, that the sultans represented the highest authority in "Somaliland".

116. The expert met with the detained sultans. Their representative expressed their concern at the use of force in the arrest of the sultans and at the use of live ammunition to deter people from hanging on to one of the vehicles carrying away the arrested persons; a young boy was shot during the skirmish and subsequently died. A total of 10 persons were also allegedly injured during the incident. The expert drew this allegation to the attention of the "President" and urged further examination of the matter. The "President" pledged that a committee would be appointed to investigate the incident.

117. The sultans stated that they had been dissatisfied with the proposed election procedures, which they deemed undemocratic owing to the central part played by the "President" in selecting candidates, applying criteria and chairing various committees. The perceived proposed role of the sultans as respected independent observers was therefore not realized. The sultans further refuted the "President's" accusation that the entire incident was fabricated by external actors.

VII. "PUNTLAND"

118. The independent expert did not visit "Puntland", given the absence of clear authorities there with whom to meet at the time of his mission. What follows is a consolidation of accounts that have reached him concerning the region.

Political crisis

119. As alluded to previously in this report, the current political crisis in "Puntland" relates to the transition at the end of the three-year mandate of the Charter of the Puntland State of Somalia in June 2001. The administration was not in a position to meet the criteria specified in the Charter, namely, finalization of a constitution, referendum and elections. Therefore, according to article 34.2 of the Puntland Charter, the mandates and term of office of the executive and Parliament expired on 30 June 2000 and power devolved to the Supreme Judge, Yusuf Haji Nur, as caretaker president. The Charter mandated the caretaker president to open a second constitutional Garowe conference to elect a president and vice-president and approve the Puntland Charter for a further three years.

120. Prior to this, the President of Puntland State of Somalia, Abdulahi Yusuf, had lobbied for an extension of the term of office on the basis that a referendum and elections could not be held owing to the economic depression and to insecurity. In March 2001 a meeting of titled elders (Isimo) concluded that there could be no extension of the term. However, in June 2001 the House of Assembly, supported by a number of senior elders, approved a three-year extension of the administration.

121. The differences between the previous administration under Abdulahi Yusuf and the "Charterists" - supporting the second Garowe conference - resulted in a governance crisis and a political impasse. On August 5/6 Abdulahi Yusuf unexpectedly came to Bosaso and attacked militia at the airport. Following a day and a half of fighting in Bosasso which resulted

in 20 deaths, Abdulahi Yusuf withdrew from Bosasso to Garowe and subsequently to Galka'ayo on 7 August. He was reported to have met with Ethiopian officials in Ethiopia and remains opposed to the conference in Garowe.

122. Despite differences among the titled elders (Isimo) and disputes over representation, Yusuf Haji Nur - supported by the Charterists - succeeded in opening the conference officially on 26 August in Garowe. The conference was suspended temporarily on a number of occasions in order to address internal discussions over representation and other matters. On 14 November, the general conference elected Jama Ali Jama as the new president.

123. There remained significant opposition between the conference process and Abdulahi Yusuf, who maintained his position as the existing President of "Puntland" and head of the administration (based in Galkaayo). He stated that he would oppose the conference outcome by all means, with force as a last resort, and has mobilized opposition to the conference process on the basis that it is supported by Al Itihad. In the wake of the attacks on 11 September, this has also been used to mobilize further Ethiopian opposition to the conference process. The Ethiopians invited both the Garowe and Galkaayo groups of cross-clan elders for talks, but only the Galkaayo group visited Addis. The Garowe group did not respond.

124. Abdillahi Yusuf's forces captured Garowe on 21 November after extensive fighting and maintained control of the town without launching a new offensive. The stand-off in "Puntland" has continued, with no further military activity up to the time of writing. It is reported that 250 Ethiopian troops are stationed at Galkaayo and that Abdullahi Yusuf is receiving military supplies from Ethiopia. Jama Ali Jama is reported to be receiving military assistance from the TNG. This may indicate a widening of the conflict. Yet at present both parties appear to be employing political means to resolve the impasse, vying for the support of elders and other authorities. Elders have appealed for Abdullahi Yusuf to leave Garowe, thus far without success.

IDPs and refugees in "Puntland"

125. Significant numbers of IDPs from southern Somalia travel regularly from the south to Galkaayo and onwards to Bosaso in search of work. Some of those in Bosaso attempt to reach Yemen by boat as illegal immigrants, to look for work there or in Saudi Arabia. A boat sank with the loss of the lives of some 89 persons in February 2001 and in March 2001, a second boat broke down, also resulting in serious loss of life.

126. IDPs in Galkaayo and Bosaso, the primary centres of economic activity, lack kinship networks and economic resources and are extremely vulnerable to exploitation, criminal activity and other human rights abuses. There is virtually no support from the international community. The economic vulnerability of IDPs is worsening owing to the continuing economic depression in "Puntland" following the livestock ban, hyper-inflation as a result of the importation of bank notes and falls in remittances to Somalia after 11 September.

127. Refugees returning to "Puntland" as their ancestral territory include refugees from Kenyan camps who are repatriated on a "voluntary" basis to Bosaso and absorbed into kinship networks. This process is becoming extremely difficult for communities to sustain in view of the worsening economic depression in "Puntland". There is virtually no external assistance for the absorption of refugees into the "Puntland" socio-economy.

VIII. PARTNERSHIPS FOR THE PROMOTION OF HUMAN RIGHTS IN SOMALIA

128. OHCHR initiated a project of technical cooperation in the field of human rights in Somalia in October 1999. The project derived from the prospects for technical cooperation as expressed by the independent expert on Somalia in her 1998 report to the Commission on Human Rights (E/CN.4/1998/96), in which she identified areas that should be taken into consideration in order to bring about a better appreciation of, and respect for, human rights. A human rights officer was posted to this end within the Nairobi-based United Nations Coordination Unit. Under the project, support was provided to the local administration, human rights defenders, NGOs and women's groups in particular, within the framework of the work carried out by the other United Nations agencies operating in Somalia; monitoring of human rights violations was carried out, and a human rights component was integrated into the work of the United Nations agencies operating in Somalia. The project ended in March 2000.

129. In April 2001, in response to a proposal from UNDP, OHCHR undertook a new project, to mainstream human rights in the work of the United Nations agencies in Somalia, particularly the governance and rule of law activities of UNDP. An OHCHR Senior Human Rights Adviser has therefore been seconded to UNDP. The Adviser is responsible for mainstreaming human rights in the work of the United Nations agencies in Somalia and provides technical advice on the implementation of the UNDP Somali Civil Protection Programme (SCPP), comprising activities in the areas of the judiciary, law enforcement, mine action and demobilization. He also provides support to the independent expert on the situation of human rights in Somalia.

130. The independent expert was pleased with the work being undertaken by the Senior Human Rights Adviser and made recommendation for further expansion of this work, as outlined in the section below. The expert also found that the project represented a significant partnership for the promotion and protection of human rights and urges similar alliances, within the United Nations system, with members of civil society and with the Government, towards this end.

131. The expert met with the UNDP Resident Representative and Deputy Resident Representative who underlined their commitment to the incorporation of human rights in UNDP strategy and programming. UNDP and OHCHR have together worked on a number of human rights initiatives within the context of the SCPP. In June 2001, UNDP and OHCHR jointly drafted a paper on considerations for the way forward in investigating alleged past human rights atrocities in Somalia, components of which were included in the report of the Secretary-General on Somalia before the Security Council in October 2001. While the SCPP approach was being reviewed during the visit of the expert, the expert was encouraged by serious discussions on the

most effective framework for the implementation of programming more consonant with a human rights-based approach. UNDP also pledged to fund the establishment of human rights commissions for local authorities in Mogadishu, "Somaliland" and Baidoa.

132. In his meetings with representatives of the international community, the expert stressed the need for support of local NGOs working on human rights issues. He met with delegates of the embassies of Sweden and Denmark. They expressed particular interest in supporting serious local NGOs and also small, concrete projects for which indicators were well defined.

133. A Human Rights and Gender Joint Working Group has been operational since April 2000, initiated by OHCHR. It is composed of representatives of OHCHR, UNDP, United Nations Coordination Unit, UNIFEM, UNICEF, UNHCR, WHO, UNESCO and FAO, who address common concerns regarding the enjoyment of human rights and the conditions of women and girls. The expert attended a meeting of the Group and was assured of the incorporation of human rights tenets in the school books being published by UNESCO for Somalia.

134. The expert was especially encouraged by the Swedish NGO Diakonia, which is charged with executing of the SCPP in "Puntland", in collaboration with OHCHR. This organization's imaginative programming, reliance on local personnel and responsive approach to the "Puntland" context impressed the expert as a model of international community support to Somalia. Diakonia works in three main areas: legal and human rights training for civil society and local authorities; education, notably for women; and low-cost housing for IDPs.

IX. CONCLUSIONS AND RECOMMENDATIONS

135. Many human rights issues were raised during the mission. Concerns touched upon the establishment of human rights commissions, the inclusion of human rights in school curricula, investigation into specific cases of human rights violations, the deteriorating conditions in prisons, the development of the judicial system, the status of women, the development of law enforcement, the separation of juveniles from adults in prison and the ratification of international human rights treaties. The independent expert also noted, throughout his visit, the presence of many child soldiers.

136. One major concern was that of addressing past atrocities. The mission marked the first time that this specific issue was addressed to major political actors in Somalia. Given the widespread support for the idea of pursuing serious and independent investigation into past atrocities, the independent expert has urged the Security Council to consider a proposal for the establishment of a committee of experts to investigate allegations of past atrocities in Somalia. The expert wrote a letter to this effect, dated 11 September 2001, addressed to the United Nations Secretary-General and the Security Council. The expert is convinced that such an effort would depoliticize the issue and contribute to the process of peace and reconciliation in Somalia. He has emphasized that the investigation should also include the conduct of the United Nations in Somalia.

137. The mission noted two positive elements in the fields of civil society and the media. It is the belief of the independent expert that a vibrant civil society in many parts of Somalia is

paving the way for a more reconciliatory atmosphere, from which the political reconciliation process could benefit. The expert urged the Nairobi-based international community to invest in the area of capacity-building for civil society. He also noted that the press in "Somaliland", Mogadishu and "Puntland" enjoyed wide-ranging freedom of expression.

138. With respect to the presence of OHCHR in Somalia, the independent expert offers the following observations/recommendations:

(a) A new or revised technical cooperation project with a longer time frame;

(b) The inclusion in such a project of additional elements relating to, for example, civil society, parliaments and the press;

(c) A base of operation in the field with national officers deployed throughout Somalia in order to ensure more effective and relevant project implementation and monitoring;

(d) Human rights seminars and training workshops for the staff of United Nations agencies on Somalia;

(e) General and periodic human rights audits and impact assessments of the programmes of all United Nations agencies operating in Somalia;

(f) Provision for a general revision of existing Somali legislation and other laws applied by the emerging local governments, regional administrations and the Transitional National Government to determine the extent to which they conform to the applicable international human rights instruments;

(g) The organization of a series of human rights seminars, workshops, conferences and training sessions inside Somalia for its different publics;

(h) Ensuring that human rights components are built into all UNDP programmes including, in particular, SCPP, the Capacity-Building for Governance Project and the Poverty Eradication Programmes;

(i) The establishment of a comprehensive database of all Somali NGOs and Civil Society Organizations;

(j) The development of indicators which are monitorable and can be disaggregated by gender, age, ethnic background and religious persuasion, specifically tailored for use in gauging the human rights situation in Somalia;

(k) The reconfiguration of SCPP with a view to establishing an integrated technical cooperation programme bringing together the judiciary, law enforcement, parliamentary training, civil society support, human rights institutions and support for independent media.

Annex

LIST OF PERSONS CONSULTED

Somalia (28 August-2 September 2001)

Baidoa

Mr. Hassan Mohammed Nur ("Shattigudud"), Chairman of the Rahanweyn Resistance Army (RRA), Co-Chairman of the Somali Reconciliation and Restoration Council (SRRC)

Representatives of WFP, the International Medical Corps, UNICEF, UNESCO, World Vision, CARE, WHO

Representatives of local NGOs

"Isha" (a local human rights group)

Mr. Hussein Aideed, Chairman of SRRC

Mr. Abdullahi Sheikh Ismail, Co-Chairman of SRRC

"General Morgan"

The Governor of Baidoa

The Police Commander

The Director of prisons

Mogadishu

Prime Minister Mr. Ali Khali Galaydh

President Abdulqasim Salad Hassan

The Deputy Prime Minister

The Deputy Minister of Justice

The Deputy Minister of the Interior

The Regional Branch Police Chief

The Director-General of the Ministry of Justice

Mogadishu (continued)

Representatives of local human rights NGOs

Mr. Osman Ali Atto, Mogadishu-based faction leader

Mr. Musa Sudi Yalahow, Mogadishu-based faction leader

Director of prisons

Hargeisa, "Somaliland"

Representatives of local NGOs

The Minister of Planning

The Minister for Foreign Affairs

The Minister of Justice

The Director of Prisons

War Crimes Investigations Committee - Minister of Commerce, Minister of Education, Assistant Minister of Transport

Representatives of UNHCR, WFP, WHO, UNDP

President Egal

14 Sultans allegedly held in detention by the President

Nairobi (3-7 September 2001)

Mr. Randolph Kent, United Nations Resident and Humanitarian Coordinator

Mr. Andrea Tamagnini, UNDP Deputy Resident Representative

Mr. David Stephen, United Nations Political Office for Somalia

Mr. Henrik Jespersen, Danish Embassy

Nairobi (3-7 September 2001) (continued)

Ms. Eva Johanson, Swedish Embassy

Mr. Gary Quince, Head of Delegation, EU/Mr. Walid Musa, EU

Ambassador Francesco Sciortino, Italian Embassy

Executive Committee, Somalia Aid Coordination Body

Ms. Caroline Abla/Mr. Gerry Cashion, USAID, Mr. Glen Warren, United States Embassy

Mr. Urban Sjostrom, Diakonia Sweden

Mr. Nabeel Ashour, Ambassador of Saudi Arabia

Dr. Salah Halima, Ambassador of Egypt